

REMARKS/ARGUMENTS

The present Amendment is in response to the Final Office Action mailed December 10, 2003 in the above-identified patent application and is accompanied by a one-month extension of time and the appropriate fees.

A. Allowable Claims

The Examiner objected to claims 5-16 as being dependent upon a rejected base claim, but indicated that the claims would be allowable if rewritten in independent form including all of the limitations of the base claims and any intervening claims. Applicants have rewritten claims 5 and 11 in independent form as claims 27 and 33, respectively, in accordance with the Examiner's suggestions.

Additionally, in accordance with the Examiner's suggestions, new claims 28-32 and 34-38 have been added to depend from claims 27 and 33 respectively. New claims 28-32 are identical to claims 6-10, except for the fact that they depend from claim 27. Similarly, new claims 34-38 are identical to claims 12-16, except for the fact that they depend from claim 33. Accordingly, no new matter has been added. Thus, all of these claims are now believed to be in conditions for allowance.

B. Claims Withdrawn From Consideration

The Examiner has withdrawn from consideration claims 23-26. The Examiner argues that these claims are directed towards an invention that is independent or distinct from the invention as originally claimed. The Examiner therefore constructively elected to examine only the originally filed claims.

Applicants are therefore canceling claims 23-26 with traverse.

C. Rejected Claims 2-4 and 17-22

The Examiner has objected to claims 2-4 and 17-22 as being anticipated by U.S. Patent No. 5,676,488 ("Hedblom"). The Examiner acknowledged the arguments made by Applicants in their response to the First Office Action, but noted that the arguments made by Applicants were moot as they were not positively recited in the claims. Specifically, the Examiner asserted that the claims amended in response to the First Office Action did not positively recite an adhesive-road surface application as discussed by the Applicants in their arguments. Consequently, in response to the Examiner's rejections, Applicants have amended independent claims 17, 19 and 21 to more positively recite that the adhesive layer is directly applied and adhered to the road surface.

Applicants believe that the positive recitation of these characteristics distinguishes over Hedblom. Hedblom teaches the use of heat to cure the first and second topcoat layers, such that each is capable of receiving additional particles. But in contrast to Applicants' invention, the first cured layer in Hedblom is located on top of a base layer that is directly applied onto the road surface. In other words, the first cured layer is not directly applied or adhered to the road surface and there is no teaching or suggestion that it is possible to do so.

Because Applicants' newly amended claims clearly recite that the first cured layer (i.e., the adhesive layer) is directly applied and adhered to the road surface, it is believed that the Examiner's rejections are overcome. Thus, Applicants submit that the claims are in condition for allowance.

Attached hereto is a marked-up version of the changes made to the specification and claims by the current amendment.

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The attached page is captioned "Version with markings to show changes made."

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to withdraw the outstanding rejection of the claims and to pass this application to issue.

If there are any additional charges in connection with this requested amendment, the Examiner is authorized to charge Deposit Account No. 12-1095 therefor.

Dated: March 26, 2003

Respectfully submitted,

By 

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Version With Markings to Show Changes Made

17. (Amended) A surface marking for roads having a fixed road surface, the surface marking comprising:

an adhesive layer of a heat-activatable adhesive material ~~for being~~ directly applieationed and adhereneed to the fixed road surface; and

a wear layer disposed over the adhesive layer, wherein at least one of the adhesive layer and the wear layer is formed of one or more materials selected from the group consisting of a resin, a thermoplastic polymer, a softener, a reflecting material and a friction material.

19. (Amended) A surface marking for roads having a fixed road surface, the surface marking comprising:

a thermoplastic adhesive layer of a heat-activatable adhesive material being ~~for~~ directly applieationed and adhereneed to the fixed road surface; and

a thermoplastic wear layer disposed over the adhesive layer,

wherein at least one of the adhesive layer and the wear layer is formed of one or more materials selected from the group consisting of a resin, a thermoplastic polymer, a softener, a reflecting material and a friction material.

21. (Amended) A surface marking for roads having a fixed road surface, the surface marking comprising:

an adhesive layer of a heat-activatable adhesive material being ~~for~~ directly applieationed and adhereneed to the fixed road surface; and

a wear layer disposed over the adhesive layer,

wherein at least one of the adhesive layer and the wear layer is formed of one or more materials selected from the group consisting of a resin, a thermoplastic polymer, a softener, a reflecting material and a friction material,

said adhesive layer having a second application temperature which is equal to or slightly higher than its softening point, and wherein said second application temperature is lower than a first application temperature for said wear layer.